

DISCUSSION PAPER:

DEVELOPING A NEW FUNDING MODEL AND APPROACH FOR BC FIRST NATIONS CHILDREN & FAMILIES

**BC FIRST NATIONS TRIPARTITE CHILDREN AND
FAMILIES WORKING GROUP**

NOVEMBER 24, 2022

INTRODUCTION

Since time immemorial, First Nations have provided for the well-being of their children, families, and citizens through advanced systems of law, medicine, social supports, justice, and environmental management, among other functions of governance. The imposition of colonialism intentionally undermined these systems. Colonial child welfare systems have been imposed to disrupt First Nations societies, cultures, and kinship and familial networks, and to maintain state control of First Nations peoples.

Through efforts to examine, resist, and address colonialism in Canadian society and institutions, progress is being made. In the recent past, new funding has been invested to address inequity and racism in the funding for First Nations children, and legislation has been passed provincially and nationally to recognize Indigenous human rights and enable First Nations jurisdiction with respect to children and families.

Part of the transformative work underway is supported by the Tripartite First Nations Children and Families Working Group. The TWG was initially formed in 2016 to focus on addressing current policy and legislative frameworks related to First Nations children and families in British Columbia. The TWG was then formally established in 2017 through the *Reconciliation Charter for First Nations Child and Family Wellbeing In British Columbia*, signed by representatives from the First Nations Leadership Council, the Province of British Columbia, and Canada. Membership in the TWG consists of executive and technical representatives from the Union of BC Indian Chiefs, the BC Assembly of First Nations, the First Nations Summit, the Ministry of Children and Family Development (MCFD), and Indigenous Services Canada (ISC).

One of the goals of the TWG has been to jointly develop a funding model applicable to First Nations child and family well-being in BC. A technical and legal-level working group, the Fiscal Framework Development Working Group (FFDWG), was formed in 2022 to focus on this goal. The purpose of the FFDWG is to work together to explore and develop a funding model applicable to First Nations child and family well-being in BC that adopts the principles of long-term, sustainable, needs-based funding to support jurisdiction and improved long-term outcomes for children, youth, and families.

Recent resolutions direct the FNLC organizations to prepare a comprehensive update to the Chiefs on the transformation of child and family services, including a new funding framework for all First Nations child and family services in BC, for the All-Chiefs Meeting on Children and Families in November 2022, and to seek a further mandate for key aspects of this work following this engagement with the Chiefs.

This discussion paper is informing these mandates by providing relevant context, describing options, and seeking direction on next steps. This paper is in three parts:

1. **Context:** Describes how the funding model currently works and the factors influencing a new approach.
2. **Approach:** Identifies preliminary concepts and principles to inform a new funding model and associated implementation considerations, and poses associated discussion questions.
3. **Process:** Identifies preliminary elements of the process of consultation and co-operation with BC First Nations on this important issue and poses associated discussion questions.

PART 1: CONTEXT

Today, child and family services are delivered in several ways, based on the understanding that child and family services is a shared responsibility of Canada and the Province; the Province being responsible for funding for First Nations that reside off-reserve and Canada being responsible for funding for First Nations child and family services for on-reserve First Nations children, youth, and families.

A range of services are delivered by 20 Indigenous Child and Family Agencies (ICFSAs) which receive delegation status from the Province. ICFSAs serve 114 First Nations and some off-reserve Indigenous families. In the most simplistic terms, funding for on-reserve service delivery is provided by ISC and by

MCFD for off-reserve delivery. In practice, MCFD provides funding for a range of services for all Indigenous people in the Province regardless of whether they reside on or off reserve.

MCFD also provides funding to an additional four ICFSAs who provide a range of delegated and non-delegated services to urban Indigenous and Metis children, youth and families.

To provide for services in areas not served by ICFSAs, ISC provides funding to the Province to provide the services through funding agreements called Service Level Agreements (SLAs). The SLA provides funding to the Province for in care services on reserve only.

In BC, there is roughly an even split between the ICFSAs and MCFD in terms of child and family services being delivered to First Nations people. MCFD provides full services to 82 First Nations and partial services to 39 of the 114 First Nations served by ICFSAs. MCFD funds and provides a range of prevention and protective services to First Nations people living both on and off reserve.

As of April 1, 2022, ISC provides funding directly to First Nations for prevention, First Nations representative services, post-majority care, and capital-related expenditures.

See Appendix A and B for supplemental material describing current state.

Funding for Indigenous Child and Family Services Agencies

ICFSAs are funded by ISC for most on-reserve services (excluding certain health services) and by MCFD for off-reserve services. In some cases, MCFD provides additional funding to ICFSAs for the delivery of services on reserve, such as child and youth mental health or family support. MCFD also provides each ICFSA with funding to support cultural connections for children, youth and families.

Prior to 2016, ICFSAs in BC were funded through the FNCFS Program in accordance with a funding methodology that was found to be discriminatory by the Canadian Human Rights Tribunal in 2016. Since a subsequent CHRT order in 2018, Canada has been funding ICFSAs based on actual costs and ICFSAs were retroactively reimbursed for previously unfunded costs to 2016. Since 2018 in BC, the ISC-funded ICFSAs have utilized a business plan model for all costs related to operations and prevention for on-reserve services, with maintenance costs for children in care based on actuals. This funding approach will be used until a new funding methodology is developed as part of the long-term reform of the FNCFS Program.

For the delivery of delegated services off reserve, MCFD uses a Standardized Funding Approach (SFA). This approach was implemented in 2017 to bring greater funding parity between MCFD and to ICFSAs and to recognize the cultural approaches to the work with their children and families. That same year, MCFD provided over \$2 million to ICFSAs for cultural funding which has now been included as baseline operational funding for the ICFSAs. The implementation of the SFA resulted in increased funding to most ICFSAs in the areas of staffing, infrastructure, and maintenance. Funding for staff is now automatically aligned with BCGEU rates. The SFA increased child maintenance funding by paying actual costs. This means all child maintenance costs are paid on actuals basis. Child maintenance includes residential placement, guardianship, independent living, alternatives to care and youth agreement costs.

Funding for First Nations

ISC provides some child and family services-related funding directly to First Nations, as described below:

Prevention funding

In March 2022, the Canadian Human Rights Tribunal (CHRT) issued an order, on consent of the parties (2022 CHRT 8) and based on the Agreement-in-Principle on the long-term reform of the Child and Family Services Program, ordering ISC to provide enhanced prevention funding to support children and families and reduce the risk of maltreatment and the risk of children being taken into care. This prevention

funding, consisting of an annual per-capita amount of \$2,500, based on each First Nation's registered population on-reserve and on "Crown land", is being provided to First Nations directly and to ICFSA's and service providers, starting in April 2022. This enhanced prevention funding is one component of an integrated and needs-based funding approach outlined in the Institute of Fiscal Studies and Democracy's (IFSD) report *Funding First Nations child and family services (FNCFS): A performance budget approach to well-being* study written in collaboration with the National Advisory Committee on First Nations Child and Family Services Reform and the parties to the CHRT complaint. This new prevention funding approach replaces the prevention funding previously provided under what was called the Community Well-Being and Jurisdiction initiative.¹

First Nations Representative Services

From 2018 to March 31, 2022, in accordance with the CHRT's order 2018 CHRT 4, ISC provided funding for Band Representative Services in Ontario only. Beginning April 1, 2022, ISC expanded this funding to support First Nations in all provinces and in Yukon. Now referred to as First Nations Representative Services, the funding consists of a per-capita amount of \$283 based on each First Nation's registered population on-reserve and on-Crown land. In Yukon, the per-capita amount is based on a First Nation's total registered population. This funding supports First Nations to meaningfully participate in child and family services matters respecting their children, youth, and families.

Post Majority Support Services

Funding for post-majority support services was enhanced on April 1, 2022, to support youth aging out of care and young adults formerly in care across all provinces and in Yukon, up to their 26th birthday. In the short-term, First Nations authorized service providers will submit claims for post-majority support services through the actuals process.

Capital for Child and Family Services and Jordan's Principle

On November 16, 2021 (and further clarified in January 2022), the CHRT ordered Canada to fund the purchase and construction of capital assets that support the delivery of First Nations child and family services including First Nations Representative Services and Jordan's Principle.

Jordan's Principle

Jordan's Principle makes sure all First Nations children living in Canada can access the products, services, and supports they need, when they need them. Funding can help with a wide range of health, social, and educational needs, including the unique needs that First Nations Two-Spirit and LGBTQIA children, youth, and those with disabilities may have. Jordan's Principle is named in memory of Jordan River Anderson. He was a young boy from Norway House Cree Nation in Manitoba.

In 2016, the CHRT determined the Government of Canada's approach to services for First Nations children was discriminatory. One way we are addressing this is through a renewed approach to Jordan's Principle. Since the ruling, the CHRT has issued a number of follow-up orders about Jordan's Principle. In May 2017, the CHRT ordered that the needs of each individual child must be considered, to ensure the following is considered under Jordan's Principle: substantive equality, providing culturally appropriate services, and safeguarding the best interests of the child.

Child and Family Services Jurisdiction Capacity development and Coordination Agreement Tables

The *Act respecting First Nations, Inuit and Métis children, youth and families* came into force on January 1, 2020. The Act enables Indigenous groups, communities or Peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982* to exercise jurisdiction over child and family services. Recognizing that not all Indigenous groups, communities or Peoples have the same readiness or resources to exercise jurisdiction under the Act, federal funding is available to support Indigenous groups,

¹ In 2018, ISC created the Community Wellbeing and Jurisdiction Initiative (CWJI) fund (a five-year fund ending in 2022-23, which has been replaced by new prevention funding effective 2022-23). This funding was intended to support First Nations to place a greater focus on prevention activities to help families at risk stay together in their communities whenever possible. In BC Region, this funding was provided to First Nations not affiliated with an Agency. It was also used to provide capacity-building funding to a number of First Nations working towards the exercise of jurisdiction (prior to the creation of a dedicated stream of jurisdiction capacity development funding in 2021).

communities and Peoples and their Indigenous governing body wishing to explore readiness to exercise jurisdiction, or to develop Indigenous child and family service legislation, systems, and programs prior to entering into coordination agreement discussions.

Ministry of Children and Family Development

The primary focus of the Ministry of Children and Family Development is supporting the well-being of all children and youth in British Columbia – both Indigenous and non-Indigenous – to live in safe, healthy, and nurturing families, and to be strongly connected to their communities and culture. The Ministry approaches its work through a Gender-Based Analysis Plus lens, delivering services that are inclusive, intersectional, responsive, accessible, and culturally safe.

The Ministry supports children, youth, and their families, emphasizing the principles of early intervention, prevention and cultural and community connections to keep families together, where possible, and to connect children and youth with permanent living arrangements when needed. Services include early childhood development, supporting children and youth with support needs, child and youth mental health, adoption, child protection, youth justice as well as helping youth transition to adulthood and adult services.

Federal Funding to Provinces

Child and family services is a shared responsibility of Canada and the Province. The Province provides child and family services for their residents, including First Nations that reside off-reserve. ISC is responsible for providing funding for First Nations child and family services for on-reserve First Nations children, youth, and families and those First Nations people that are considered to be ordinarily on-reserve.

Funding for First Nations child and family services is provided as follows:

1. ISC provides FNCFS funding directly to ICFsAs for the delivery of services on-reserve.
2. In areas where ICFsAs do not exist, ISC provides funding to the Province to provide the services through funding agreements called Service Level Agreements (SLAs).
3. In some cases, ICFsAs only provide voluntary and prevention services, in which cases the Province provides protection services to those First Nations and receives funding to do so from ISC via a Service Level Agreement.

Service Level Agreements (SLAs)

SLAs are in place between Canada and five jurisdictions, through which Canada reimburses Newfoundland and Labrador, Yukon, Alberta, British Columbia, and Ontario for costs associated with the delivery of services to First Nations on-reserve, where those First Nations are not served by an Agency. Under the SLA between Canada and BC, BC provides child and family services in 82 First Nations communities not served by an Agency, delivers some services in communities served by ICFsAs, and provides maintenance costs for children in care. In 2021-22, this agreement was for \$45.1 million.

Transformation

All of these funding arrangements are currently being examined and transformed, largely due to the efforts by Indigenous Peoples and organizations to illuminate the inequitable funding models and service approaches that do not respect and uphold Indigenous rights. Key processes and frameworks supporting this transformation include:

International Human Rights Framework²

Article 21 and 22 of the UN Declaration on the Rights of Indigenous Peoples call for specific attention to the needs of Indigenous children and youth when implementing the UN Declaration and taking measures to improve the economic and social conditions of Indigenous peoples. The UN Declaration also affirms

² www.un.org/development/desa/indigenouspeoples/mandated-areas1/children-and-youth.html

the right to live in freedom, peace and security including protecting children from being removed from their group by force (Article 7.2), the right to all levels of education without discrimination (Article 14.2), the right to be protected from economic exploitation or hazardous work, and the right to be protected for violence and discrimination (Article 22.2). The UN Declaration has been affirmed by both federal legislation (United Nations Declaration on the Rights of Indigenous Peoples Act³) and BC provincial legislation (Declaration on the Rights of Indigenous Peoples Act⁴).

The Convention of the Rights of the Child was ratified by the Government of Canada on December 12, 1991. The Convention in its totality includes Indigenous children and youth and also includes specific references to Indigenous children in ensuring their access to diverse media in their languages (Article 17.d), to education that is non-discriminatory (Article 29.d) and the right to their own culture, religion and language (Article 30).

Truth and Reconciliation Commission⁵

The 2015 final report of the Truth and Reconciliation Commission made Calls to Action regarding child welfare, including calling for legislation to enable jurisdiction, and for adequate resources to enable Indigenous communities and organizations to keep families together where it is safe to do so, and to keep children in culturally appropriate environments, regardless of where they reside.

Canadian Human Rights Tribunal and Agreement-in-Principle

The Assembly of First Nations (AFN) and the Caring for First Nations Children Society of Canada (Caring Society) have, since 2007, been advancing work through the CHRT regarding the FNCFS Program and Jordan's Principle. Rulings of the CHRT have incrementally been advancing equitable funding approaches for First Nations children across Canada.

On December 31, 2021, Canada, the AFN, the Caring Society, the Chiefs of Ontario (COO), and Nishnawbe Aski Nation (NAN) signed an Agreement-in-Principle (AIP) on long-term reform of the FNCFS Program and a renewed approach to Jordan's Principle that commits to implementing a fully reformed Program on April 1, 2023. Through the AIP, Canada committed to an approach on long-term reform that is based on the methodology developed by the Institute for Fiscal Studies and Democracy (IFSD) as well as additional elements of reform. The AIP is being used as a framework for the parties to negotiate a Final Settlement Agreement which will detail the reformed FNCFS Program.

Implementation of early enhancement to the FNCFS Program began in April 2022, consisting of increased federal prevention funding, funding for First Nations Representative services in all provinces and in Yukon, and post-majority support services for youth formerly in care up to their 26th birthday.

A funding model and approach for BC will both inform and align with broad national considerations such as the negotiations on long term reform of ISC's First Nations Child and Family Services program and a renewed approach to Jordan's Principle.

An Act respecting First Nations, Inuit and Métis children, youth and families⁶

The Act came into force on January 1, 2020. It enables Indigenous groups, communities or Peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982* to exercise jurisdiction over child and family services.

BC-Specific Policy & Legislation

There is long-standing work in BC – locally, regionally, and provincially – to advance child and family jurisdiction and improved funding. This includes work by individual First Nations to reclaim jurisdiction using traditional laws and tools under the *Indian Act*, work by ICFSAs to deliver high-quality and

³ <https://laws-lois.justice.gc.ca/eng/acts/U-2.2/>

⁴ <https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/19044>

⁵ https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls_to_action_english2.pdf

⁶ https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2019_24/

culturally-appropriate services despite funding constraints, and collective work to develop action plans and strategies that serve all BC First Nations.

In 2016, a Tripartite First Nations Children and Families Working Group (TWG) was formed amongst Canada, BC, and First Nations (as represented by the First Nations Leadership Council) to focus on addressing current policy and legislative frameworks related to First Nations children and families in British Columbia. The TWG formalized a *Reconciliation Charter for First Nations Child and Family Wellbeing In British Columbia*, signed by representatives from the First Nations Leadership Council, the Province of British Columbia, and Canada. The TWG has continued to meet to advance shared work and strategies in support of First Nations children and families. The establishment of the TWG as a forum for dialogue has fostered the development of strong working relationships between the parties. It has also supported improved engagement on key issues such as development of legislation and legislative amendments.

Changes to the provincial *Child, Family and Community Service Act* (CFCSA) introduced in April 2018, focused on better supporting families to safely stay together. These changes allow for greater information sharing and involvement by Indigenous communities in child welfare matters so that children and youth can stay connected to their families, communities, and cultures. In 2018, the Province harmonized the rates for in care and out of care supports resulting in more out of care arrangements for Indigenous children. The Province now has the lowest number of Indigenous children in care in BC since this data began to be recorded.

In November 2022, historic changes were introduced to provincial legislation to support Indigenous Peoples to re-establish, develop, and exercise child-welfare laws for their community members and to recreate their own models for child and family service delivery, including family support, child protection and adoption services.⁷ These changes in both practice and law will place new obligations on the Director when it comes to care for Indigenous children.

BC-Specific Engagement on Children & Families

Throughout 2021 and 2022, Alderhill Planning carried out engagements amongst BC First Nations on the implementation of *An Act respecting First Nations, Inuit and Métis children, youth and families*. This engagement has provided guidance and conditions that are the foundation for this discussion paper and future work. Throughout this discussion paper, text boxes highlight key themes arising from that engagement process, so that deliberations on this paper can build upon the perspectives shared to date.

PART 2: APPROACH

The foregoing context sets the stage for long-term transformation in children and family jurisdiction, decision-making, and service delivery for First Nations, including the associated funding model. This section describes and seeks input to some of the key aspects and considerations involved in developing a new funding model for First Nations child and family jurisdiction and services in BC.

The feedback provided to this discussion paper, along with other processes of engagement described in Part 3, will inform the work of the FFDWG in developing options for this new funding model to be reviewed by BC First Nations.

Scope & Deliverables

Through the work of the TWG and its FFDWG, we envision developing an overarching and comprehensive funding model that can be given expression through a range of funding agreement options that meet First Nations where they are at in their exercise of jurisdiction and interests in providing direct service delivery.

⁷ <https://news.gov.bc.ca/releases/2022PREM0061-001594>

To support this, one possible approach could be a new single tripartite agreement between Canada, the Province, and BC First Nations that describes a new funding model, how that funding model can be accessed by BC First Nations, and establishes associated implementation and process understandings covering governance, accountability to First Nations, measurement, dispute resolution, and similar measures.

In other words, this tripartite agreement would establish strategic processes and outline the funding model overall, which would help inform and advance the implementation of a range of funding agreements that Nations will directly negotiate with federal and provincial governments.

This agreement would need to meet the diverse needs of BC First Nations and enable their specific self-determined priorities. For example, this tripartite agreement would need to support:

- First Nations that wish to serve their members regardless of residence (on and off-reserve)
- Indigenous Governing Bodies seeking to reclaim and exercise jurisdiction, including passing laws, developing policies, and establishing intergovernmental agreements to coordinate decision-making
- First Nations and their mandated organizations seeking to build and enhance on-the-ground capacity in their communities to directly deliver services that reflect their cultural teachings and social priorities
- Interim arrangements for First Nations seeking to be involved in governance of the system of children and families services accessed by their citizens even if they are not yet directly exercising jurisdiction or delivering certain types of children and families services
- First Nations with specific priorities ranging from child and family well-being, prevention, reunification, adoption, protection, and others
- All of the associated capital, data, management, and administrative infrastructure needed to both “catch up” and equitably support First Nations children, families, and the services they need

This agreement must also guide and establish parameters for how funding is provided to the Province and by the Province to continue to deliver services for those First Nations they will serve directly.

Interim improvements should continue concurrent to the development of the tripartite agreement. This includes renewal of the SLA as per the resolution endorsed by the Chiefs to include more funding, incorporate principles from *An Act respecting First Nations, Inuit and Métis children, youth and families* and the *Reconciliation Charter*, and to enhance accountability to BC First Nations for funding flowed through this agreement (amounts, purpose, use, outcomes). This SLA must be updated again once a new funding model is in place.

Guiding Principles

Any new tripartite arrangement must be principle-based. Guiding principles are a set of moral values that establishes a framework for decision-making. A list of thoughtful, non-negotiable principles provides the ethical compass to guide how choices are made.

History has shown us that the lack of core, values-based principles that are grounded on the respect of Indigenous rights results in harm, inequity, and indignity. Instead, Canada, BC, and First Nations are interested in co-developing and applying a set of shared principles that underpin funding model options and agreement to support system transformation and improved outcomes.

The following draft guiding principles have been drawn and thematically organized from a number of existing documents developed and/or endorsed collectively and/or by First Nations⁸: the following documents:

- **Safety and Wellbeing:** The safety and well-being of First Nations children, youth, and families is paramount.
- **The Best Interest of the Child:** The ‘best interest of the child’ determinations are generally made by considering a number of factors related to the child’s circumstances and the parent or caregiver’s circumstances and capacity to parent, with the child’s ultimate safety and well-being the paramount concern.
- **Indigenous Human Rights:** Resourcing, systems, and processes must be developed specifically to enable the expression of Indigenous human rights, such as to exercise jurisdiction, support the dignity and well-being of children and families, and to receive services without discrimination.
- **Cultural Continuity:** First Nations children’s cultural identities, connections to their communities, kinship ties and attachments to their families must be supported and preserved.
- **Substantive Equality:** The provision of essential child and family services shall be substantively equal and meet the distinct needs and circumstances of First Nations children, youth, and families – including their needs relating to historical disadvantage, structural racism, and geographical needs and circumstances.
- **First Nations Led:** Support First Nations to exercise jurisdiction with regard to child and family well-being.
- **Canada to End Discrimination:** The onus rests solely with Canada to end the discriminatory funding, funding structures, policies, procedures, and agreements identified by the CHRT impacting First Nations children, youth, and families and to prevent the recurrence of discrimination.
- **Collective Responsibility:** We have a collective responsibility, based on our respective authorities and mandates, to work to provide the best supports and services possible. We will work in the spirit of reciprocal accountability.
- **Recognition of Distinct Rights:** The distinct cultures, languages, and historical and current realities of distinct First Nations shall be recognized.

Summary of Input to Date: Bill C92 Engagement

- Uphold UNDRIP
- Uphold OCAP
- Hold children sacred
- Include all genders and embrace gender diversity in this work;
- Utilize a nested systems approach (relationships to self, family, community, Nation and land);
- Acknowledge the diversity of approaches to Indigenous child wellbeing;
- Center Healing; and
- Center Indigenous protocols and practice.
- Balance “substantive equality” with uniqueness of each child, youth, and family
- Acknowledge that Indigenous peoples continue to face systemic wealth inequalities and significant gaps in service provisions
- Funding applications need to be simplified and reporting requirements must be less stringent
- Funding must be equitable and provided to communities based on their actual need, not based on provincial or regional funding formulas
- Provide equitable funding to First Nations to build infrastructures and capacity in their communities.

⁸ Agreement-in-Principle (AIP) on long-term reform of the FNCFS Program and a renewed approach to Jordan’s Principle; An Act respecting First Nations, Inuit and Metis Children, Youth and Families; Reconciliation Charter for First Nations Child & Family Well-being in British Columbia; Arrangement for the Funding and Administration of Social Services Agreement in Alberta; Resolutions passed by BC First Nations with respect to children and families, and tripartite arrangements at a provincial level.

- **Rights are Held by Individual First Nations:** A tripartite arrangement must affirm and be entirely without prejudice to the title and rights of First Nations, including enabling (and not predetermining the outcome of) their individual government-to-government negotiations.

Guiding principles would then influence and shape the development of options for various aspects of a funding model. The types of questions to be answered include:

- How can the funding model take into account and incentivize the desired outcomes of kinship/cultural connection, substantive equality, and the exercise of jurisdiction?
- How can the funding model address the need to develop and enhance programs and services along the entire spectrum of child and family well-being needs (protection, permanency, cultural connection, kinship promotion, family and community well-being, etc.)?
- What capital, technology, and administrative requirements must be provided for?
- How will the funding model take into account the different contexts and circumstances of First Nations, in terms of population size, where their citizens are living, the remoteness of communities, and many more?
- What are the various forms of possible funding agreements that First Nations can enter into (e.g. block funding, etc.)?
- In addition to the core funding agreements that First Nations need to advance their priorities, what other special-purpose funds are needed to address emergency, one-time, and/or specific needs?
- What escalator needs to be applied to funding agreements to address key cost drivers such as inflation and population growth?

Summary of Input to Date: Bill C92 Engagement

Long-term funding streams are required for:

- Transfer of jurisdiction
- Service delivery for child and family wellbeing services
- Access to services for urban Indigenous people;
- Child and family navigator positions in communities;
- Long-term care for Elders' as their needs increase
- Community-based capacity for decision-making
- Funding to develop and code Indigenous Laws
- Capacity, training, and succession planning
- Legal liability issues
- Insurance
- Capital acquisitions and infrastructure
- Family housing
- Legal representation
- Evaluation and monitoring tools
- Databases and information management systems
- Jordan's Principle
- Community healing across the lifespan
- Prevention services
- On and off-reserve First Nations people
- Training around Bill C92
- Transition and safe houses
- Stable housing for at-risk families
- Connection programs for those away from home and for those needing to reconnect with their kin

Implementation

Transition from the current model to a new model will require strong tripartite relationships to address problems and issues, assure progress is made, and that there is proper accountability of all involved for the commitments and outcomes we have collectively agreed-upon. Much of this appropriately and properly rests directly between First Nations title-holders, BC, and Canada. However, some of this work must also take place at a provincial level, to ensure that no one is left behind, that BC has a strong voice in national processes, and that problems can be quickly addressed.

This could take the form of a continuing process similar to the work that has been undertaken by the TWG – a tripartite senior officials table responsible for functions like:

- Overseeing smooth implementation of the tripartite agreement, such as by preparing and overseeing an implementation plan
- Discussing national and provincial policy and program matters, including ensuring a proper involvement of BC in any new funding and transformation efforts
- Creating technical and other working groups as needed on specific issues and priorities
- Preparing evaluation and accountability reports
- Hosting engagement processes with First Nations related to the tripartite agreement and children and families issues generally
- Holding knowledge exchange sessions amongst First Nations
- Supporting dispute resolution if/when the need arises

Summary of Input to Date: Bill C92 Engagement

- Host sessions to share ideas and successes about successful child wellness models
- Create a policy review table to examine and make recommendations on legislation and policies on child and family wellbeing
- Support the establishment of First Nations child and family services institutions and organizations
- Need increased coordination for advocacy purposes
- First Nations need to develop collective goals that can be advanced through shared advocacy processes
- Need to maintain a central repository for all funding and other information, and make support available to help Nations access the process

Data, Measurement, Reporting, Evaluation

Data and information will be critical to coordinate services, monitor the impacts of a new children and families funding approach, implement improvements, address emerging needs, and celebrate progress. This will be needed at local, provincial, and national levels.

The foundation of this work must rest with title holders. Each First Nation will need support to identify the outcome measures that most matter to them, and to collect and utilize associated data.

At the same time, the principles of substantive equality means that we leave no one behind, and must track outcomes of the population as a whole and therefore need common data.

Therefore, we need to support individual rights-holders to collect data and monitor indicators that matter to them, and need to look at this and other data (such as that regarding service delivery to First Nations children and families served by the Province) collectively at a population level. This could take the form of periodic provincial-level reports on key outcome measures agreed upon by First Nations, BC, and Canada, summative evaluations on the effectiveness of the tripartite agreement, and annual accountability reports.

At a national level, the Agreement-in-Principle (AIP) on long-term reform of the FNCFS Program and a renewed approach to Jordan's Principle includes a commitment to a National First Nations Secretariat. This is envisioned to be an independent and technical Secretariat function to assist First Nations and FNCFS service providers through data collection, analysis, and operational support. The Secretariat will share research and tools to help in the transition to a reformed funding model. The Secretariat is not

Summary of Input to Date: Bill C92 Engagement

- Create a secretariat for implementation and monitoring of Bill C92
- Establish an information-sharing agreement to allow for timely and important information to be shared where it concerns the safety and quality of life of a child.
- Support First Nations in accessing and managing data related to their members in accordance with OCAP principles
- Develop capacity for Indigenous data management and collection
- Establish a monitoring and evaluation framework and annually publish data against agreed-upon indicators

necessarily envisioned as one organization, but rather could be a network that builds on existing First Nations regional and national capacity.

All this effort will require new types of information-sharing agreements. Some agreements need to facilitate the ethical sharing of data for the purposes of monitoring and reporting. Importantly, some agreements also need to facilitate the sharing of case file information to ensure coordinated service delivery. These agreements must all be compliant with applicable laws and the principles of Indigenous data sovereignty, data governance, and OCAP®.

PART 3: PROCESS

All of this work in child and family reform and transformation of the funding model must be done jointly. The following elements guide our approach to consultation and cooperation:

- We do not have a pre-determined vision or outcome for a new funding model; this material draws on what has already been endorsed and is presented as a starting point to build from together.
- We are not starting from scratch; our people have made space for this transformation through many years of advocacy, legal action, and negotiation. These parameters as well as ideas, options, and information that First Nations have provided previously will be used within the process.
- We must engage directly and regularly throughout the process including providing rights and title holders access to all the information required to make informed decisions and participate in discussions on substantive policy matters.
- The role of First Nation organizations within the process will be based on direction given by proper title and rights holders through the established mechanisms that exist amongst First Nations for directing such work.
- Any final tripartite agreement must provide for the opportunity for free, prior, and informed consent by title and rights holders, and not inhibit their ability to advance government-to-government negotiations.

Informed by previous engagement, this discussion paper is a next step in the process of full engagement with BC First Nations. It will be provided at the All-Chiefs' Meeting on Children and Families taking place on November 24-25, 2022, and distributed to all BC First Nations for comment. Additional opportunities for individual meetings, smaller virtual gatherings, working groups, and other forms of input will be provided as they may be requested. The input provided to this paper will be summarized and circulated to all BC First Nations.

Input provided will inform the development of funding model options which will be summarized in another discussion paper shared with BC First Nations in 2023. Input will also inform interim improvements to the Canada-BC SLA. There will be opportunities created for working groups and review and engagement sessions related to both interim improvements (e.g. SLA) as well as long-term transformation (e.g. funding model and associated agreement) in the coming year.

DISCUSSION QUESTIONS

1. A new funding model must transform the status quo on a principled basis. What do you think of the guiding principles presented? What are key foundations or elements of a new funding model that transforms the status quo, reflects First Nations worldviews, and is rights-based?

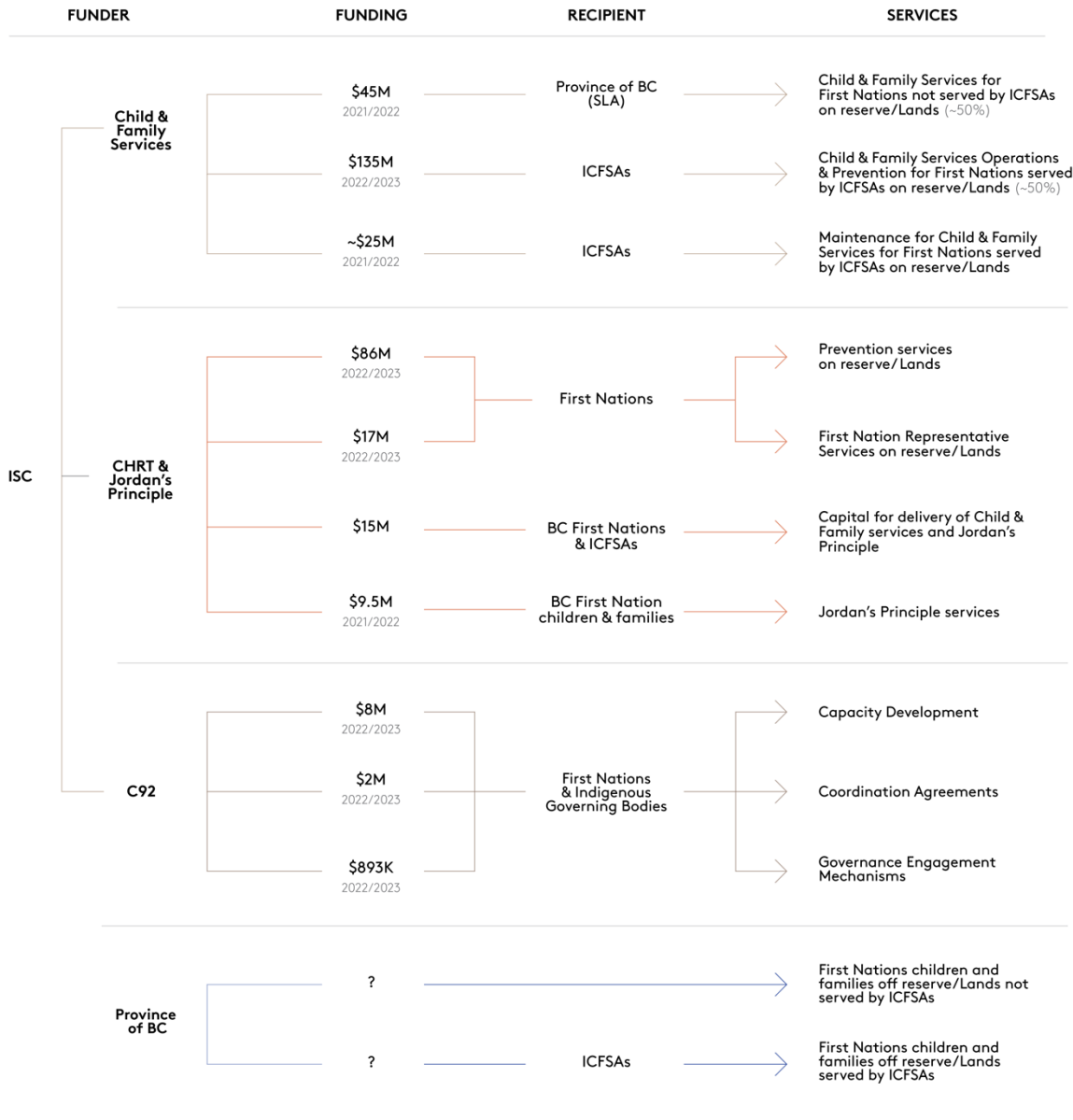
2. Some provincial-level oversight and coordination is needed to assure a strong role for BC in national transformation conversations, to support IGBs/Nations to leverage the same benefits and learn from one another's progress, and to maintain accountability for results. What should this oversight and coordination look like? Should this build upon the TWG structure already in place? How should IGB/First Nation governance be assured in this process?
3. The new funding model needs to provide for a range of possible situations, to meet First Nations where they are at, based on their priorities. Are there any models or examples you would like to highlight to ensure this is taken into account?
4. This work requires ongoing engagement. What are your preferred ways of being engaged moving forward (e.g. virtual sessions, collective meetings, working group formats, direct Nation-BC-Canada meetings, etc.)? Do you have feedback on this proposed engagement plan? How do we ensure BC First Nations provide their free, prior and informed consent?

Please share your input, questions, and suggestions with:

allyssa@ubcic.bc.ca

APPENDIX A: CURRENT STATE DIAGRAM

The following graphic is an evolving representation of First Nations Child and Family Services funding in BC. There are obviously many unknowns and significant work yet to do to fill in gaps in our understanding. This diagram also does not yet represent the funding that is sunsetting, nor does it include Jordan’s Principle. This diagram is presented in full transparency to leadership about current understanding as a demonstration of the work yet to come, and the imperative for transformation.



NOTES Community Well-Being and Jurisdictional Initiative Funding sunsets this year. First Nations in BC unaffiliated with an ICFSAs are entitled to \$104M in retroactive funding that will be distributed by March 2023

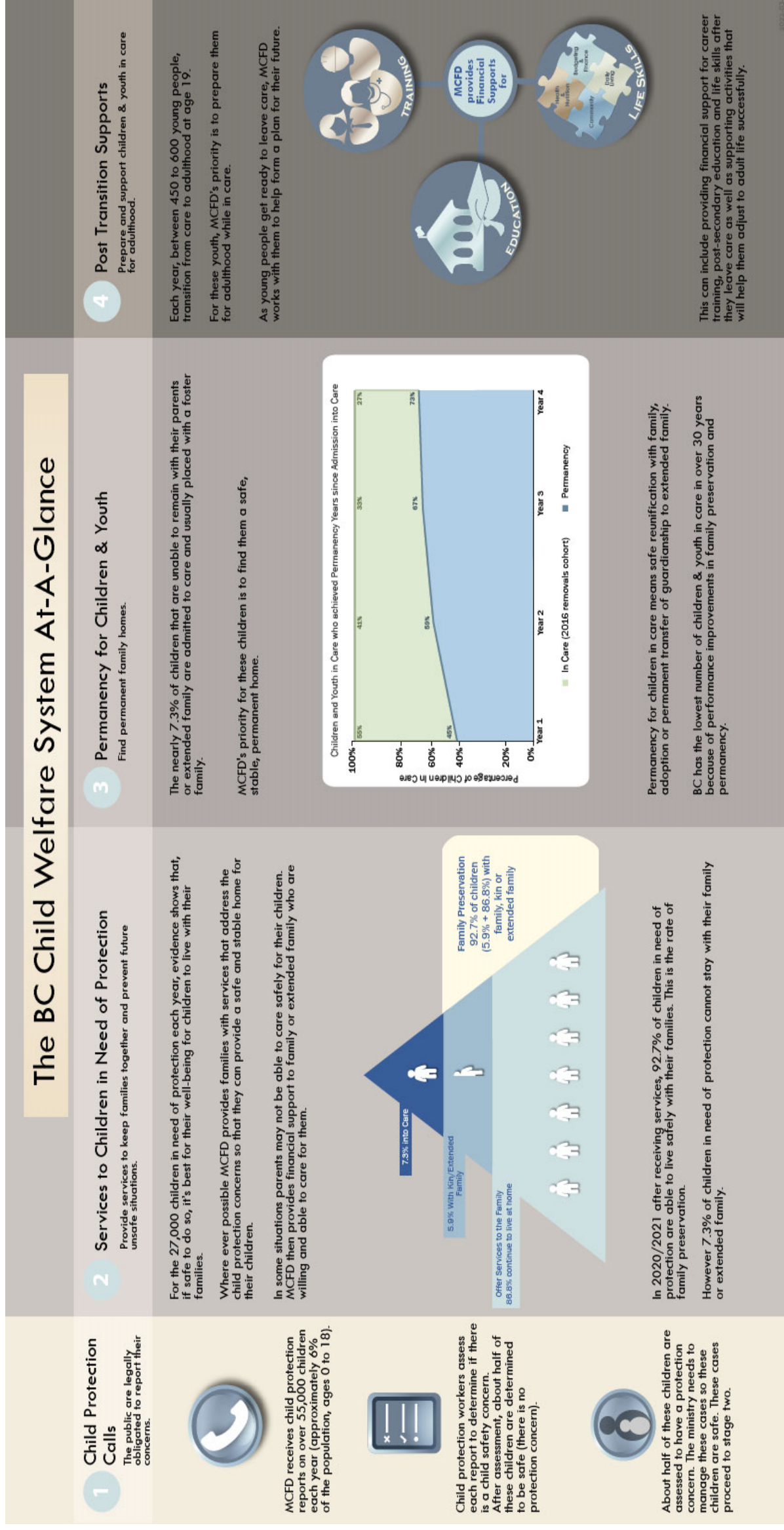
New for 2022/2023, as identified in the Agreement-in-Principle on Long-Term Reform of the FNCFS program, Post-Majority Support Services funding at actual costs up to the day a young adult formerly in care turns 26 to support to youth aging out of care and young adults formerly in care as they transition to adulthood and independence. First Nations and First Nation authorized service providers can submit funding requests for the reimbursement of costs through the actuals process.

**APPENDIX B: MCFD STATEMENT OF CHILD & FAMILY
SERVICES PROVIDED FOR INDIGENOUS CHILDREN AND
YOUTH FISCAL YEAR 2020/2021**

Statement of Child & Family Services Provided for Indigenous Children and Youth Fiscal Year 2020/2021

Introduction

This statement summarizes the services provided to Indigenous Children and Youth by the BC Child Welfare System. The statement is organized into sections to reflect the four stages of the system (see infographic below).



For provincial and regional data on these four stages of the BC Child Welfare System please go to <https://mcf.gov.bc.ca/reporting>

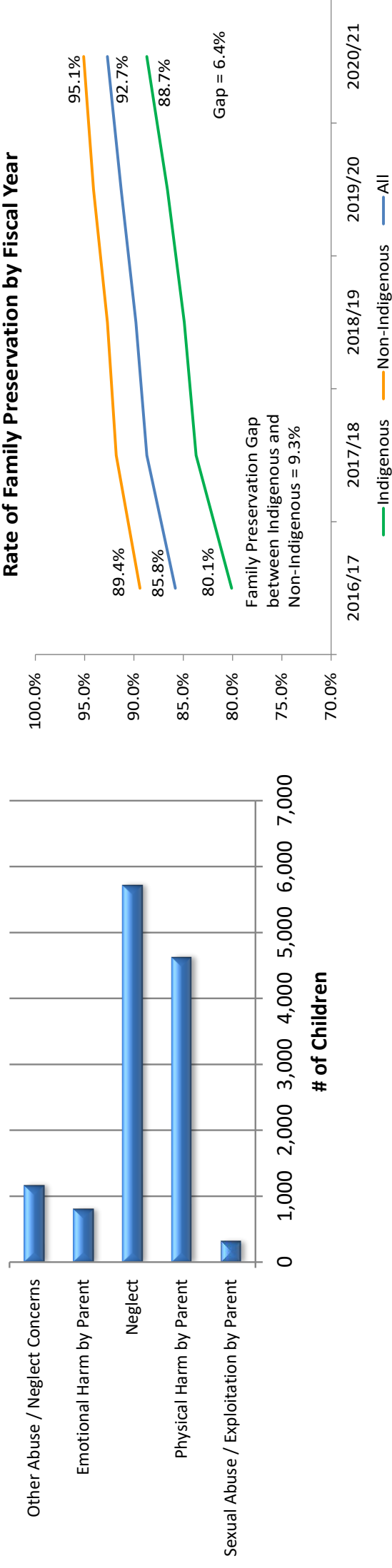
Stages 1 & 2 Safety Assessments & Services to Children in Need of Protection

Indigenous communities have told us that it is essential for their children's wellbeing that they live with their family or extended family. A key goal of the BC Child Welfare System is to help keep families safely together through supports and services.

Table 1 - Number of Children and Youth with Safety Concerns & Services Provided in Fiscal Year 2020/2021

	Family Preservation			In-Care
1	2	3	4 = (2+3)/1	5
Number of children and Youth found in Need of Protection After a Child Safety Response in Fiscal Year 2019/2020 10,240	Children/Youth with Assessed Safety Concerns Whose Safety was Managed through services over the next 12 months 8,013	Children/Youth with Assessed Safety Concerns Who were Admitted into Out of Care Options over the next 12 months 1,069	Rate of Family Preservation (BC = 92.7%) 89%	Children/Youth with Assessed Safety Concerns Who were Admitted into Care over the next 12 months 1,158

For more information and comparisons see <https://mcsfd.gov.bc.ca/reporting/services/child-protection#2>



For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.

Table 2 - Summary of Transfer of Guardianship, Out of Care, and Youth Services For Indigenous Children and Youth

As at March 31, 2021	Youth Services	Out of Care	Transfer of Guardianship
Total	346	1,366	1,464
MCFD	201	894	1,191
ICFSA	145	472	273
Direct Support Payments Fiscal Year 2020/2021 (MCFD only)	\$2,602,699	\$10,449,468	\$16,760,764

Note: Expenditures are only those made directly on behalf of specific children for residential payments, by MCFD. Some children are cared for by Indigenous Child & Family Services Agencies (ICFSA). ICFSA expenditures are not reflected above.

Out of Care - the child is in the care of a person other than a parent by agreement or court order without the director having care or custody of the child. In these situations, the director's role is primarily that of providing financial support to the care provider, but the child is not a child in care of the director. The out of care agreement or order is placement specific - the child is in the care or custody of a specific person for a temporary period of time.

Youth Support Services and Agreements - A director may establish support services for youth, including but not limited to safe houses, outreach services and supported living arrangements. A director may enter into an agreement with a youth who cannot, in the director's opinion, be re-established in the youth's family, or)has no parent or other person willing or able to assist the youth.

The following sections of the CFCSA enable the out of care placement of a child or youth:

- Extended Family Program-Section 8
- Interim Custody Order -Section 35(2)(d)
- Temporary Custody Order - Section 41(1)(b)
- Temporary Custody Order (If the court does not make a continuing custody order) - Section 49(7)(b)
- Support Services for Youth - Section 12.1
- Agreements with Youth - Section 12.2

Transfer of Guardianship - The CFCSA under Section 54.1 (applies to children and youth under a Continuing Custody Order) and Section 54.01 (applies to children and Youth under an Out of Care Temporary Custody order or the Extended Family Program) enables the ministry to permanently transfer all parental rights to another important adult in the child or youth's life. Studies show considerable positive outcomes for children and youth when they have grown up with someone to whom they a significant relationship, or cultural connection. Permanent living arrangements for children foster self-esteem and identity, having a profoundly positive effect on their future development.

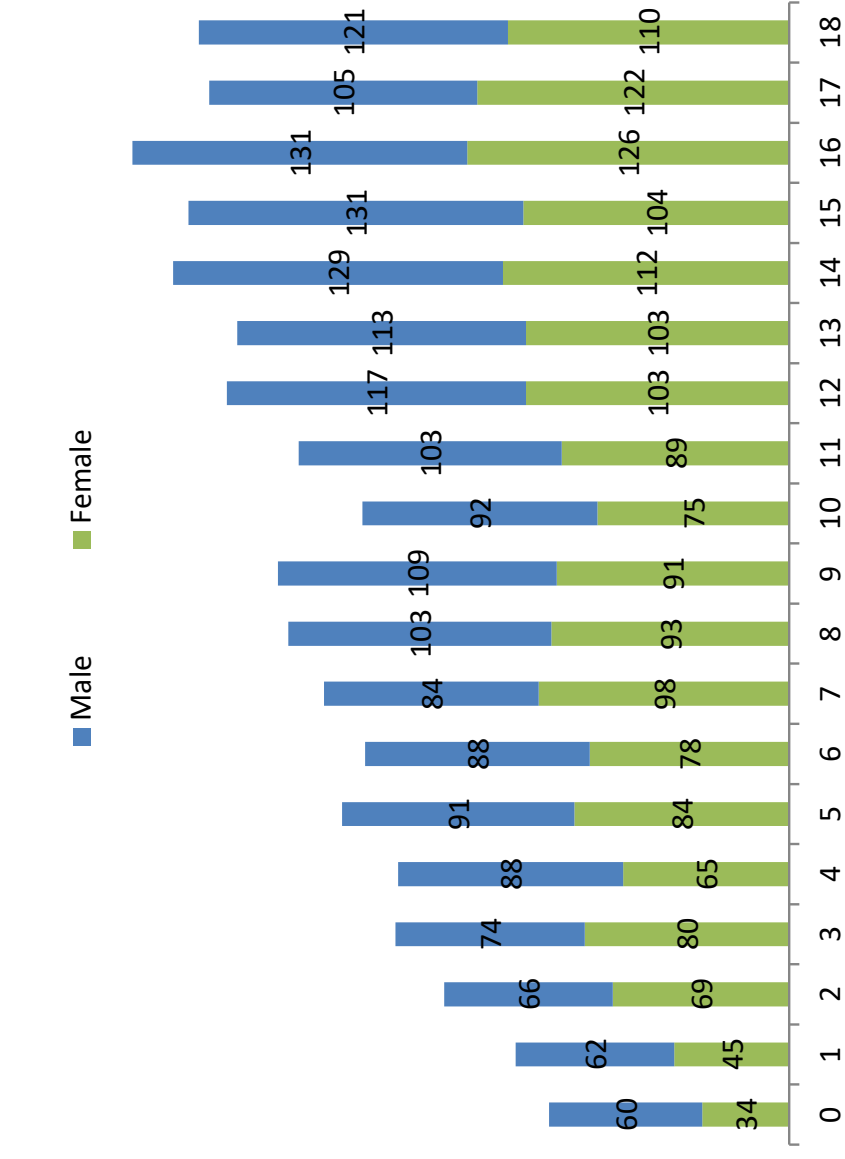
For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.

Stage 3 Permanency for Children & Youth in Care

Table 3 - Summary of Children and Youth In Care For Indigenous Children and Youth

As at March 31, 2021	CYIC
Total	3,548
MCFD	1,658
ICFSA	1,890
Direct Residential Expenditures Fiscal Year 2020/2021 (MCFD only)	\$86,409,796

CYIC, as at March 31, 2021, by Age and Gender



Permanency Plans of CYIC

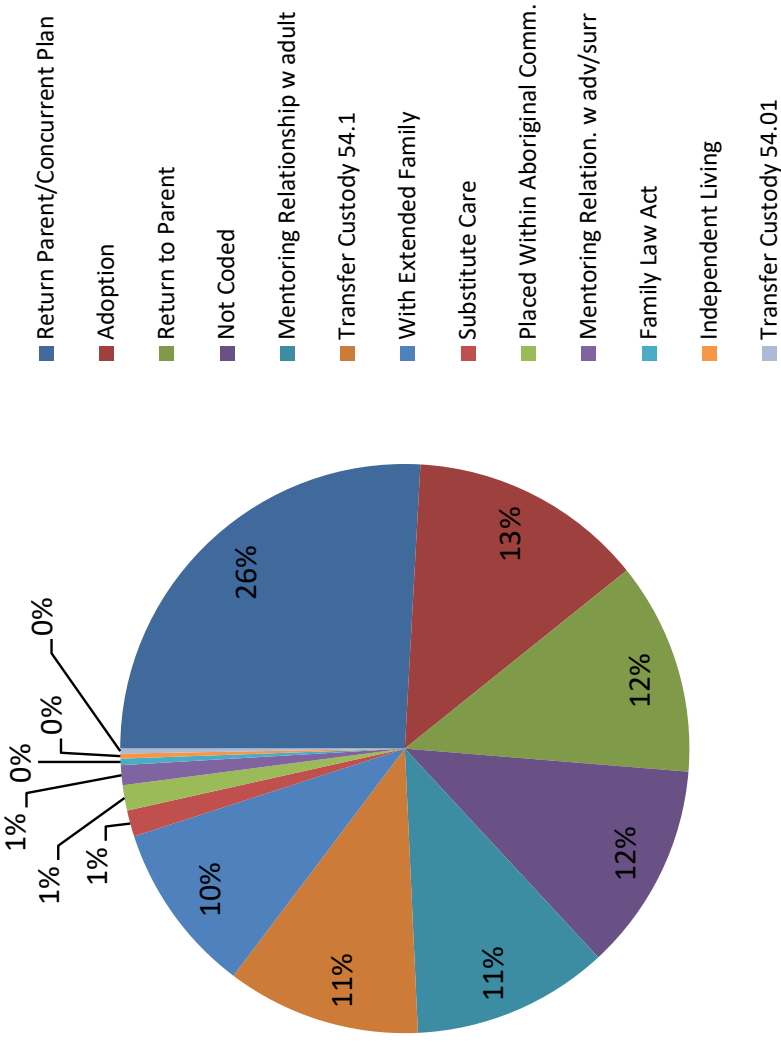


Table 4 - Summary of Children and Youth In Care by Legal Category For Indigenous Children and Youth

As at March 31, 2021	Continuing Custody Order (CCO)	Special Needs Agreement (SNA)	Voluntary Care Agreement (VCA)	Other In Care Legals
Total	2,174	85	161	1,128
MCFD	787	53	96	722
ICFSA	1,387	32	65	406

For more information and comparisons see <https://mcf.gov.bc.ca/reporting/services/child-protection#3>

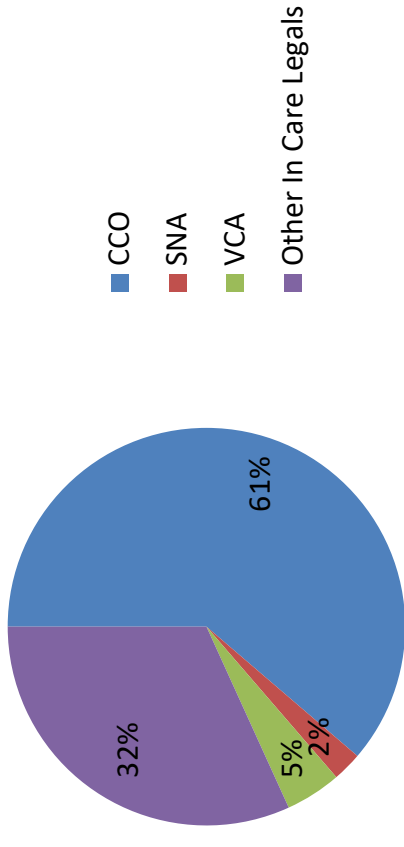
Continuing Custody Order indicates that the director under the Child, Family and Community Service Act (CFCSA) has become the sole personal guardian of the child. The continuing custody order severs the parents' guardianship rights.

Special Needs Agreements made between the parent and the director under the CFCSA for the director to provide care to a child with special needs. The parent retains guardianship and can cancel the agreement at any time.

Voluntary Care Agreements made between the parent and the director under the CFCSA for the director to temporarily provide care to a child. The parent retains guardianship and can cancel the agreement at any time.

Other In Care Legals include:

Temporary Custody Orders and Interim Custody Orders are court orders allows the director to temporarily exercise the rights and responsibilities of a guardian for the child except for the right to consent to adoption. The parent's guardianship of the child is not terminated.



For the Province, The Percent of CYIC on April 1 that Found Permanency by March 31 of that same Fiscal Year

CYIC Placement Stability for 12 months (to March 31, 2021):
Average number of placement changes per child, over the past 12 months, for children and youth in care on March 31, 2021:

Indigenous Children and Youth: 0.3

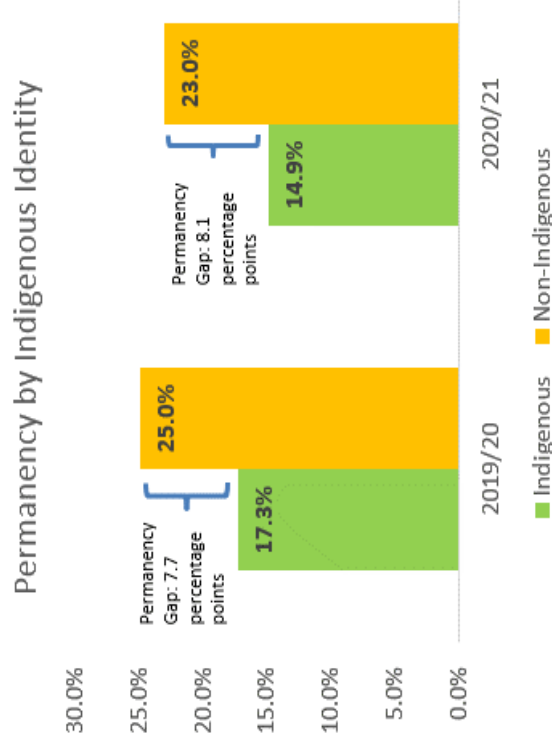
Province: 0.3

CYIC Permanency Rate for Fiscal Year 2020/2021

Of the CYIC on March 31, 2020, the percentage that found permanency (reunification with parents, adoption or Permanent Transfer of Guardianship) by March 31, 2021:

Indigenous Children and Youth: 14.9%

Province: 17.5%



For transparency the same graphs appear in every statement. Where the number of families served is small some graphs are not meaningful and can be disregarded.

Stage 4: Post Transition Supports

Table 5 - Former Youth in Care Supported Through AYA Within Fiscal 2020/2021

	Young Adults	AYA Benefits Received in Fiscal 2020/2021
Total	393	\$3,796,598
MCFD	373	\$3,562,344
ICFSA	20	\$234,253

*Benefits cover Fiscal Year 2020/2021

For more information and comparisons see <https://mcf.gov.bc.ca/reporting/services/child-protection#4>

Table 6 - Indigenous Child & Family Services Agencies

Indigenous Child and Family Services Agency	Indigenous Children and Youth CYIC on March 31, 2021
Fraser Valley Aboriginal Child & Family Service Society	429
Vancouver Aboriginal Child And Family Services Society	390
Secwepemc Child & Family Services	131
Usma Nuu-Chah-Nulth Community & Human Services	128
Kwumut Lelum Central Island Child & Family Service	102
Surrounded By Cedar Child & Family Services	93
Lalum'Utul'Smun'Eem Child & Family Services	90
Metis Family Services	74
Nezul Be Hunuyeh Child & Family Services	60
Carrier Sekani Family Services	58
Ktunaxa-Kinbasket Family & Child Services	52
Ayas Men Men Child & Family Services	48
Nil/Tu'O Child & Family Services	43
Northwest Inter-Nation Family Services Society	37
Scw'Exmx Child & Family Services	30
Nisga'A Family & Child Services	29
Knucwewecw Society	21
Nilha'7kapmx Child & Family Services	20
Gitxsan Child & Family Services Society	19
Lii Michif Otipemisiwak	19
Denisiqj Services Society	12
Splatsin Stsmamit Services	5

Service	Fiscal 2020/2021			
	BUDGET	Indigenous (%)	Indigenous (\$)	Non-Indigenous (\$)
Early Childhood and Child Care	\$714,181,000	10%	\$71,418,100	\$642,762,900
Child and Youth Mental Health	\$122,642,551	35%	\$42,924,893	\$79,717,658
Children and Youth With Support Needs	\$359,662,954	15%	\$53,949,443	\$305,713,511
Family and Youth Supports	\$174,128,000	43%	\$75,607,936	\$98,520,064
Children and Youth In Care	\$644,441,892	50%	\$322,713,394	\$321,728,498
Adoption	\$36,072,249	35%	\$12,625,287	\$23,446,962
Youth Justice	\$50,150,354	40%	\$20,060,141	\$30,090,212
<i>Sub-Total</i>	<i>\$2,101,279,000</i>	<i>29%</i>	<i>\$599,299,195</i>	<i>\$1,501,979,805</i>
Overhead Supports	\$127,167,000	29%	\$36,268,901	\$90,898,099
Total	\$2,228,446,000	29%	\$635,568,096	\$1,592,877,904

Your questions and comments are welcome.

Please contact: MCF.Info@gov.bc.ca or call 1-877-387-7027 toll free or 250-387-7027 in Victoria.